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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Civil Case No.: 3:18-CV-07591-CRB-JSC

CITY AND COUNTY OF SAN FRANCISCO,
et al.,

Plaintiffs,

v.

PURDUE PHARMA L.P., et al.

Defendants.

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING WALGREEN
CO.'S RESCHEDULING OF
PLAINTIFF'S INTERCOM PLUS
INSPECTION**

Pursuant to Civil Local Rules 6-2 and 7-12, the People of the State of California, acting by and through San Francisco City Attorney David Chiu, (“the People”), together with Defendant Walgreen Co. (“Walgreens”), respectfully submit this stipulation regarding the People’s Request to Inspect, addressed most recently in this Court’s December 20, 2021 Order. Dkt 856. The parties make representations below. While certain of each party’s representation are disputed by the other party, the representations are included for background and context. The parties stipulate only to paragraphs six and seven following the language that “the parties hereby stipulate as follows.” **WHEREAS**, the Court ordered that Plaintiff’s remote inspection of Walgreens’ Intercom Plus System take place on Wednesday, December 22, 2021;

Walgreens represents that:

1. Late in the day on Tuesday, December 21, Cheryl Creek, Walgreens’ Director of Pharmacy Systems who had been scheduled and prepared to operate Walgreens’ system during the inspection, alerted Walgreens’ counsel that a family emergency prevented her from conducting the inspection as planned.
2. Shortly after finding out about Ms. Creek’s family emergency, Walgreens contacted Plaintiff to reschedule the inspection for a later date agreeable to the parties.
3. Walgreens’ counsel had spent hours working with Ms. Creek to prepare her for the inspection with Plaintiff’s lawyers and their experts, including reviewing questions that Plaintiff had submitted and entering de-identified prescription data for eight patients into Walgreens’ test system as Plaintiff requested. Finding and preparing a knowledgeable replacement to conduct a two-hour inspection and answer Plaintiff’s questions in less than a half day would have been difficult if not impossible for Walgreens to do—especially without interrupting its business operations.
4. Absent these unforeseen circumstances, Walgreens was fully prepared to proceed with the inspection today, Wednesday, December 22, 2021.

Plaintiff represents that:

5. Although the People objected to Walgreens’ cancellation—which is the second 11th hour cancellation of this inspection in as many weeks—they could not have stopped it. The People

wish Ms. Creek and her family the best, and did not object to her missing the inspection. They did however object to Walgreens using her hardship as an excuse to cancel the inspection, for which she was never necessary. The subject of this inspection is Walgreens' software, not its personnel. Plaintiff has consistently requested the participation of a line pharmacist in the inspection. *See, e.g.*, 12/20/21 Hr'g. Tr. at 22:9–22. Under the circumstances, Walgreens should have been able to find such a replacement for Ms. Creek, who no longer practices pharmacy. Creek Tr. at 391:6–9. It appears they did not even try. This imposes significant hardship on the People and their experts, who have now prepared, in vain, for two consecutive, cancelled inspections. Nevertheless, given Walgreens' position, the People saw no way to keep this inspection date on calendar without subjecting the Court to emergency motion practice and leaving its experts in limbo (again). They informed their experts of the cancellation, and await new dates from Walgreens.

The parties hereby stipulate as follows:

6. Walgreens will promptly identify a new date for the inspection that works for both parties.
7. The inspection will proceed on that date.

DATED: December 22, 2021

Respectfully submitted,

/s/ Jacob H. Polin

/s/ Kaspar J. Stoffelmayr

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1 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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3 Dated: December 28, 2021


4 JACQUELINE SCOTT CORLEY
United States Magistrate Judge